

Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

§ 165.T09-111 [Removed]

2. Remove § 165.T09-111.

3. Add § 165.912 to read as follows:

§ 165.912 Security Zone; Lake Erie, Perry, OH.

(a) *Location:* The following area is a security zone: all navigable waters of Lake Erie bounded by a line drawn between the following coordinates beginning at 41°48.187' N, 081°08.818' W; then due north to 41°48.7' N, 081°08.818' W; then due east to 41°48.7' N, 081°08.455' W; then due south to the south shore of Lake Erie at 41°48.231' N, 081°08.455' W; thence westerly following the shoreline back to the beginning (NAD 83).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Cleveland, or the designated on-scene representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: May 20, 2002.

R.J. Perry,

Commander, U.S. Coast Guard, Captain of the Port, MSO Cleveland.

[FR Doc. 02-13137 Filed 5-23-02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020508113-2113-01; I.D. 090501D]

RIN 0648-AP12

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid and Butterfish Fisheries; Framework Adjustment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes measures contained in Framework Adjustment 2 (Framework 2) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). This action would extend the limited entry program for the *Illex* squid fishery for an additional year; modify the *Loligo* squid overfishing definition and control rule; allow for the roll-over of the annual specifications for these fisheries (with the exception of total allowable landings of foreign fishing (TALFF)) in the event annual specifications are not published prior to the start of the fishing year; and allow *Loligo* squid specifications to be set for up to 3 years, subject to annual review. NMFS has disapproved the proposed framework measure to allow *Illex* squid vessels an exemption from the *Loligo* squid trip limit during an August or September closure of the directed *Loligo* squid fishery. This action is necessary to address issues and problems that have developed relative to the management of these fisheries and is intended to further the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on June 10, 2002.

ADDRESSES: Copies of Framework 2, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are

available on request from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904-6790. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Comments on Framework 2 should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope, "Comments-SMB Framework Adjustment 2." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273, fax 978-281-9135, e-mail Paul.H.Jones@noaa.gov.

SUPPLEMENTARY INFORMATION: In 1997, Amendment 5 to the FMP established a limited entry program for the *Illex* squid fishery in response to a concern that fishing capacity could otherwise expand to over exploit the stock. At the time the program was established, there were concerns that the capacity of the limited entry vessels might prove, over time, to be insufficient to fully exploit the annual quota. In response to this concern, a 5-year sunset provision was placed on the *Illex* squid limited entry program, and it is currently scheduled to end July 1, 2002. However, in recent years the limited entry fleet has demonstrated that it has sufficient capacity to harvest the long-term potential yield from this fishery. The Mid-Atlantic Fishery Management Council (Council) must prepare an amendment to the FMP to evaluate whether or not the limited entry program should be extended permanently. In the meantime, this action would extend the *Illex* squid moratorium through July 1, 2003, to prevent overcapitalization while the amendment is being prepared and considered by the Council. This extension complies with the criteria in section 303(b)(6) of the Magnuson-Stevens Fishery Conservation and Management Act. The extension will allow the Council additional time to consider long-term management for the *Illex* squid fishery, including the limited entry program. Vessels that took small quantities of *Illex* squid in the past may continue to do so under the incidental catch provision of the FMP.

This action would also authorize the roll-over of the annual specifications for the Atlantic mackerel, squid, and butterfish fisheries. In recent years, publication of the annual specifications

for those fisheries has occurred after the start of the fishing year on January 1, resulting in inefficient management and industry uncertainty. In particular, late publication has affected business entities interested in conducting Joint Venture Processing (JVP) operations for Atlantic mackerel, because such operations cannot be authorized until there is a final rule that includes a JVP allocation. This action would allow the annual Atlantic mackerel, squid, and butterfish specifications from the previous fishing year to roll-over into the next fishing year (excluding TALFF), in the event that annual specifications for that year have not been published. The rolled-over specifications would be superceded by the publication of the current year's annual specifications.

While the primary components of the overfishing definition for *Loligo* squid (the maximum fishing mortality rate threshold and the minimum biomass threshold) remain unchanged, this proposed action would modify the control rules that guide the Council in making harvest recommendations based upon those definitions. The fishing mortality rate (F) control rule adopted for *Loligo* squid in Amendment 8 to the FMP specified that the target fishing mortality rate (F_{msy}) must be reduced to zero if biomass falls below 50 percent of the biomass target (B_{msy}). The target fishing mortality rate increases linearly to 75 percent of F_{msy} as biomass increases to B_{msy} . However, the 29th Stock Assessment Workshop (SAW 29) indicated that the control rule was not appropriate for the stock, and that the target F of zero at 50 percent of the biomass target could be overly conservative. SAW 29 concluded that the apparent resilience of the stock is high, suggesting that it can rebuild quickly from low stock sizes at low to moderate F's. Estimates of biomass based on NMFS' Northeast Fisheries Science Center (NEFSC) fall 1999, spring 2000, and fall 2000 survey indices for *Loligo* squid indicate that the stock is currently at or near B_{msy} . The stock is also no longer listed as overfished in NMFS' Report to Congress: Status of the Fisheries of the United States (January 2001). However, projections of the 29th SAW indicated that if the *Loligo* squid stock were overfished, the biomass could be rebuilt from the minimum biomass threshold ($\frac{1}{2} B_{msy}$) to levels approximating B_{msy} in as little as 3 years, if F were reduced to 75 percent of F_{msy} . Based on the above information, the Council concluded that the control rule adopted in Amendment

8, requiring an F of zero at $1/2 B_{msy}$ was too conservative.

This proposed action would allow specification of an annual quota associated with a target F of up to 90 percent of F_{msy} to be specified if stock biomass is greater than one-half B_{msy} . If stock biomass falls below, or is expected to fall below, one-half B_{msy} , measures to control fishing mortality would be implemented to insure that the stock is rebuilt to B_{msy} in a time period consistent with the requirements of the Magnuson-Stevens Act. NMFS is publishing the proposed definition and also reviewing it in light of the updated *Loligo* stock assessment conducted in January 2002.

This action also proposes to allow maximum optimum yield (Max OY), allowable biological catch (ABC), optimum yield (OY) and domestic annual harvest (DAH) for *Loligo* squid to be specified for up to 3 years. If the annual review conducted by the Council through its Monitoring Committee indicates that it is necessary, such a multi-year specification would be revised in the annual specification process.

This action also proposes an outline for a timeframe to be followed for in-season adjustments to the annual specifications for *Loligo* squid. The Council's Monitoring Committee will meet in late spring each year to review available NEFSC survey data and to develop recommendations for the annual harvest for the following year. In addition, at that meeting, the Monitoring Committee will make recommendations regarding inseason adjustments to the annual *Loligo* squid specifications for consideration by the Atlantic Mackerel, Squid, and Butterfish Committee and the Council. Based on an evaluation of the most recent NEFSC spring and fall trawl survey data, the OY, DAH, and ABC specifications may be adjusted to be consistent with the control rule. Upon review of the recommendations from the Council, the Administrator, Northeast Region, NMFS (Regional Administrator) may make inseason adjustments through publication of notification in the **Federal Register**, to be followed by a 30-day comment period, as specified in the current regulations. Inseason adjustment actions may include increases or decreases in the OY, DAH and ABC specifications and may result in opening or closing the directed fishery for *Loligo* squid.

Disapproved Measure

NMFS has disapproved the proposed measure to allow *Illex* squid vessels an exemption from the *Loligo* squid trip

limit during an August or September closure of the directed *Loligo* squid fishery. The proposed measure would have allowed vessels fishing in the directed *Illex* squid fishery during a closure of the *Loligo* fishery to land *Loligo* squid harvested seaward of the 50-fathom (91-m) curve in an amount not to exceed 10 percent of the total weight of *Illex* squid on board the vessel. Currently, all vessels are limited to an incidental catch allowance of 2,500 lb (1,134 kg) of *Loligo* squid per trip during a closure of the directed *Loligo* fishery.

This provision is being disapproved at the proposed rule stage because it has been found to be inconsistent with national standards 2 and 7 under the Magnuson-Stevens Act. Because this action would limit vessels to a *Loligo* squid bycatch of 10 percent of the amount of *Illex* squid on board the vessel, and because of the high-volume nature of the *Illex* fishery, NMFS believes it would be impossible to enforce the proposed provision. In addition, under this provision, vessels would only be permitted to retain an increased bycatch of *Loligo* squid while directing on *Illex* squid seaward of the 50-fathom (91-m) curve. However, it would be difficult for enforcement agents to determine if a vessel's *Loligo* squid bycatch was legally taken, or occurred landward of the 50-fathom (9-m) curve. Such a provision would create significant enforcement costs and, therefore, would be inconsistent with national standard 7.

Additionally, the Council did not consider the best scientific data available to it when it defined the exemption measure; thus the measure has been found to be inconsistent with national standard 2. The data examined by NMFS indicates that there are factors contributing to the *Loligo* squid bycatch that were not considered by the Council. NMFS is also concerned that the analysis of the proposed measure did not use a sufficiently long time-series of data to account for the fact that the overlap of the *Illex* and *Loligo* squid stocks is quite variable from year to year. Preliminary review of available data also shows that the Council analysis may have under-estimated the amount of *Loligo* squid that could be landed as incidental catch by vessels other than those fishing under the *Illex* squid exemption. As a result, the analysis of the measure appears not to properly assess the impact on the *Loligo* squid quota management program.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of the preamble. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in the Preferred Alternatives or any of the alternatives considered for this action. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see **ADDRESSES**) or via the Internet at <http://www.nero.nmfs.gov>. A summary of the analysis follows.

In addition to the measures described above, the Council considered several alternatives. The non-preferred *Illex* permit alternatives considered were: (1) To extend the moratorium on entry to the *Illex* fishery for an additional 5 years (through June 30, 2007); and (2) to allow the moratorium on entry to the *Illex* fishery to expire in 2002 (no action).

The alternative specification measures were: (1) If annual specifications are not published prior to the start of the fishing year, the fisheries would operate without specifications and Joint Ventures could not be conducted until specifications were published (no action/status quo); (2) if annual specifications are not published prior to the start of the fishing year, a set of default specifications would apply until the specifications are published; (3) if annual specifications are not published prior to the start of the fishing year, the fisheries would be closed until the final specifications are published; (4) if annual specifications for Atlantic mackerel are not published prior to the start of the fishing year, the previous year's specifications for Atlantic mackerel (excluding TALFF) would apply, until final specifications are published; and (5) if annual specifications for Atlantic mackerel are not published prior to the start of the fishing year, a set of default specifications (excluding TALFF) would apply until the specifications are published.

The alternative *Loligo* overfishing definitions were: (1) An annual quota specified consistent with a target F of up to 90 percent F_{msy} if stock biomass is greater than the minimum biomass threshold ($\frac{1}{2} B_{msy}$). If stock biomass was

expected to fall below the minimum biomass threshold ($\frac{1}{2} B_{msy}$), measures would be implemented to rebuild the stock to B_{msy} in 3 to 5 years; (2) an annual quota specified consistent with a target F of up to 90 percent F_{msy} if stock biomass is greater than the minimum biomass threshold ($\frac{1}{2} B_{msy}$). If stock biomass was below the minimum biomass threshold ($\frac{1}{2} B_{msy}$), measures would be implemented to rebuild the stock to B_{msy} in 3 to 10 years, but no longer than 10 years; (3) maintain current control rule and quota setting procedure for *Loligo* (no action/status quo).

Illex Moratorium Extension

The proposed action would extend the moratorium on entry of new vessels into the *Illex* fishery for one year; therefore no impact is expected on vessels in the fishery in 2002 (and the first half of 2003), compared to individual vessel revenues in 2001. The Council assumed that the market and prices are expected to remain stable. Any changes in individual vessel revenues would be the result of factors outside the scope of the moratorium (e.g., change in fishing practices for individual vessels, or changes in abundance and distribution of *Illex* squid).

New vessels entering the fishery would limit per vessel share of the *Illex* squid quota and reduce revenues for the existing moratorium vessels proportionally. Computing the negative impacts of revenue losses for the existing moratorium vessels is impossible due to the redirection of effort into the *Illex* squid fishery. Therefore, the Council decided to assume three scenarios that presumed revenues derived from landings of *Illex* squid would be reduced by 75, 50, and 25 percent due to an assumed increase in vessels that have not participated in the *Illex* squid fishery.

Under alternative 2, the IRFA review of revenue impacts examined the landings of vessels in the existing moratorium fishery and presumed that revenues derived from landing *Illex* for these vessels would be reduced by 75 percent due to an assumed increase in effort of 75 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 79 vessels, to a maximum of 40–49 percent for 2 vessels. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 15 vessels had home ports in New Jersey. Other impacted vessels were home ported in Massachusetts, Rhode Island, New York, and North Carolina.

Presumably, other vessels entering the fishery would experience gains in revenues.

Under alternative 3, the IRFA review of revenue impacts presumed that vessel revenues derived from landing *Illex* would be reduced by 50 percent due to an assumed increase in effort of 50 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent for 84 vessels, to a maximum of 30–39 percent for one vessel. There were no impacted vessels home-ported in Maryland, New Hampshire, or Virginia; a high of 11 vessels had home ports in New Jersey. Others were in Massachusetts, Maine, Rhode Island, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Under alternative 4, the IRFA review of revenue impacts presumed that vessel revenues derived from landing *Illex* would be reduced by 25 percent due to an assumed increase in effort of 25 percent. A total of 109 vessels were projected to be impacted by revenue losses that ranged from less than 5 percent, for 88 vessels, to a maximum of 10–19 percent for 8 vessels. The number of impacted vessels by home state ranged from none in Maryland, New Hampshire, New York, and Virginia, to a high of 11 in New Jersey. Other impacted vessels were home ported in Massachusetts, Maine, Rhode Island, and North Carolina. Presumably, other vessels entering the fishery would experience gains in revenues.

Specifications Process

The only alternative considered concerning quota specifications that would be expected to change gross vessel revenues would be the option that would close the fisheries if the final specifications are not published by the start of the fishing year. This measure would have significant negative economic consequences for vessels operating in the Atlantic mackerel, *Loligo* and butterfish fisheries because landings of these three species would be prohibited until NMFS publishes the final rule for new specifications and significant landings occur early in the fishing year. The IRFA analysis assumed that these fisheries would most likely be closed during the months of January and February under this alternative. The total value of the landings of these three species during the first 2 months of 1999 represented about 20 percent of the annual revenue generated for all three species in 1999. For Atlantic mackerel, 291 vessels landed 12.1 million lb of mackerel valued at \$1.7 million. A closure in January and

February would result in a loss of mackerel revenue of \$5,842 per vessel under this alternative. For *Loligo*, 281 vessels landed 6.5 million lb of *Loligo* valued at \$5.1 million. A closure in January and February would result in a loss of *Loligo* revenue of \$18,361 per vessel under this alternative. For butterfish, 228 vessels landed 1.4 million lb of butterfish valued at \$0.9 million. A closure in January and February would result in a loss of butterfish revenue of \$4,067 per vessel under this alternative. This measure would be expected to have little or no economic impact on the *Illex* fishery since the directed fishery occurs during the summer.

Loligo Overfishing Definition

None of the alternatives considered concerning the *Loligo* control rule and in-season adjustment are expected to change gross revenues. Therefore, the IRFA concluded that neither the preferred nor the non-preferred alternative represents catch constraints on vessels in these fisheries in aggregate or individually. Without such catch constraints, there is no impact on revenues.

However, the no action alternative could have severe economic consequences if the stock biomass falls below $\frac{1}{2} B_{msy}$. If the Council had followed the control rule implemented in Amendment 8 for the 2000 fishery, the *Loligo* fishery would have been closed for the entire year. Thus failure to replace the control rule could have unwarranted negative economic and social consequences. The best example is for fishing year 2000. If the Council had followed the control rule, the fishery would have been closed, with significant impacts in participant vessels. Preliminary NMFS data show that 525 vessels landed 34.9 million lb of *Loligo* in 2000, valued at \$27.3 million. A complete closure of the fishery in 2000 would have resulted in an economic loss of \$52,000 per vessel due to loss of *Loligo* revenue.

It has been determined that this proposed rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 22, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, paragraph (a)(5)(i), the introductory text is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(i) *Loligo* squid/butterfish and *Illex* squid moratorium permits. (*Illex* squid moratorium is applicable from July 1, 1997, until July 1, 2003). * * *

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3. In § 648.20, paragraph (b) is revised to read as follows:

§ 648.20 Maximum optimum yields (OYs).

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(b) *Loligo*—the catch associated with a fishing mortality rate of F_{msy} , or the best available proxy for F_{msy} .

* * * * *

4. In § 648.21, paragraphs (a)(1) and (d)(1) are revised and paragraphs (a)(4) and (a)(5) are added to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

(a) * * *

(1) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Illex* squid;

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(4) Initial OY (IOY), including research quota (RQ), domestic annual harvest (DAH), and domestic annual processing (DAP) for *Loligo* squid, which, subject to annual review, may be specified for a period of up to 3 years;

(5) Inseason adjustment, upward or downward, to the specifications for

Loligo squid as specified in paragraph (e) of this section.

* * * * *

(d) * * *

(1) The Squid, Mackerel, and Butterfish Committee will review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Squid, Mackerel, and Butterfish Committee must recommend to the MAFMC appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC will review these recommendations and, based on the recommendations and any public comment received thereon, must recommend to the Regional Administrator appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator will review the recommendations and, on or about November 1 of each year, will publish notification in the **Federal Register** proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30-day public comment period. If the proposed specifications differ from those recommended by the MAFMC, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations will be available for inspection at the office of the Regional Administrator during the public comment period. If the annual specifications for squid, mackerel, and butterfish are not published in the **Federal Register** prior to the start of the fishing year, the previous year's annual specifications, excluding specifications of TALFF, will remain in effect. The previous year's specifications will be superceded as of the effective date of the final rule implementing the current year's annual specifications.

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